

REMARKS

By this paper, Claims 65-67 and 71 have been amended. Support for the amendments to Claims 65-67 and 71 can be found in the specification at least at paragraphs [0011] and in the portions of the specification added by the preliminary amendment submitted with the application on the filing date, particularly the second and third paragraphs of the material inserted after page 41, line 7 of the specification, as well as Figures 36 and 37. No new matter has been added by this amendment. Claims 55-58, 62, 64-67, and 70-71 are pending and presented for examination.

Consideration of Office Actions Submitted in Information Disclosure Statements

Applicant thanks the Examiner for his attention to the effects of consideration of the Office Actions cited in the Information Disclosure Statement submitted on April 18, 2008.

Applicant notes that all four of these Office Actions are from applications which have already issued as patents. Thus, the public status of the prosecution history of those patent applications will not be affected. In light of this, Applicant respectfully requests that the Examiner consider these office actions.

Discussion of Rejection of Claims Over DeMond in View of Cordova

The Examiner has rejected Claims 55-58, 62, 64-67, 70, and 71 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,079,544 to DeMond, et al. in view of U.S. Patent No. 5,526,327 to Cordova, Jr. Applicant respectfully submits that independent Claims 65-67 and 71, as amended, are patentable over the combination of DeMond and Cordova.

DeMond is directed to a projection system utilizing a digital micromirror device (DMD), which comprises tiltable micromirrors which can be moved to direct light in a desired direction. When a DMD element is in an "on" position, the mirror directs light in a direction such that it will be visible by a viewer, such as towards a display screen. When the DMD element is off, the mirror directs light in a direction such that it will not be seen by a viewer. *See, e.g., DeMond*, at col. 7, l. 68 – col. 8, l. 7.

In contrast, amended Claim 66 recites a product comprising, *inter alia*, an electronically controllable active display area on a surface, the display area including an array of interference modulators of light on the surface, wherein the interference modulators comprise an absorber

layer spaced apart from a reflector by an interferometric cavity. In contrast, the DMD elements of DeMond comprise only a tiltable mirror, and do not comprise an absorber layer spaced apart from a reflector by an interferometric cavity. Thus, DeMond does not teach or suggest an array of interference modulators as recited in amended Claim 66.

Applicant respectfully notes that this deficiency is not cured by Cordova, which is directed to displays which represent the time by illuminating various portions of an object, and which does not disclose an array of interference modulators as recited by Claim 66. Thus, Applicant respectfully submits that amended Claim 66 is patentable over the combination of DeMond and Cordova.

Applicant notes that independent Claim 65 has been amended to recite a similar limitation, and respectfully submits that amended Claim 65 is patentable over the combination of DeMond and Cordova for at least the reasons discussed with respect to amended Claim 66.

Amended Claim 67 recites an object whose surface is modulated by virtue of the fabrication of an array of interferometric modulation elements on its surface, wherein the interferometric modulation elements comprise an interferometric cavity for causing interference modulation of the light. Applicant respectfully submits that DeMond, which is directed to DMD elements which merely redirect light, does not teach or suggest interferometric modulation elements which comprise an interferometric cavity for causing interference modulation of the light. Applicant also notes that this deficiency is not cured by Cordova. Thus, Applicant respectfully submits that Claim 67, as amended, is patentable over the combination of DeMond and Cordova.

Amended Claim 71 recites a method of use with a product that includes an array of interference modulators of light on a surface of the product, the method comprising, *inter alia*, controlling the array of interference modulators to impart the selected overall product appearance to the product, wherein controlling the array of interference modulators comprises controlling the position of a reflective layer relative to an absorber layer to alter the size of an interferometric cavity located between the reflective layer and the absorber layer. Applicant respectfully submits that DeMond, which operates by altering the direction in which a micromirror element reflects light, does not disclose controlling an array of interferometric modulators as recited in amended Claim 71. Applicant also notes that this deficiency is not cured by Cordova. Thus, Applicant

respectfully submits that Claim 71, as amended, is patentable over the combination of DeMond and Cordova.

As Claims 55-58, 62, 64, and 70 depend from at least one of independent Claims 65-67 or 71, Applicant respectfully submits that they are patentable for at least the reasons discussed with respect to the independent claims from which they depend, in addition to providing further patentable distinction.

Discussion of Rejection of Claims Over Bornstein and Over Bornstein in View of Cordova

The Examiner has rejected Claims 55-58, 64-67, 70, and 71 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 5,661,592 to Bornstein, et al. In the alternative, the Examiner has rejected Claims 55-58, 62, 64-67, 70, and 71 under 35 U.S.C. § 103(a) as unpatentable over Bornstein in view of Cordova. Applicant respectfully submits that independent Claims 65-67 and 71, as amended, are patentable over any combination of Bornstein and Cordova.

Bornstein is directed to a deformable grating apparatus, which comprises deformable ribbons spaced apart from a substrate. Light incident upon the deformable ribbons is reflected by a reflective layer within the ribbons, and light that passes through gaps between the ribbons is reflected by a reflective layer on the substrate. The light reflected by the ribbons interferes with the light reflected by the reflective material within the gaps.

In contrast, amended Claim 66 recites a product comprising, *inter alia*, an electronically controllable active display area on a surface, the display area including an array of interference modulators of light on the surface, wherein the interference modulators comprise an absorber layer spaced apart from a reflector by an interferometric cavity. Applicant respectfully submits that Bornstein discloses neither an absorber layer, nor an interferometric cavity located between an absorber layer and a reflector. As noted above, this deficiency is not cured by Cordova. Thus, Applicant respectfully submits that amended Claim 66 is not anticipated by Bornstein or obvious over any combination of the cited art.

As Claim 65 has been amended to recite a similar limitation, Applicant respectfully submits that amended Claim 65 is also patentable over any combination of the cited art.

Amended Claim 67 recites an object whose surface is modulated by virtue of the fabrication of an array of interferometric modulation elements on its surface wherein the

interferometric modulation elements comprise an interferometric cavity for causing interference modulation of the light. Applicant respectfully submits that neither Bornstein nor Cordova disclose an interferometric cavity as claimed, and that amended Claim 67 is patentable over any combination of the cited art.

Amended Claim 71 recites a method of use with a product that includes an array of interference modulators of light on a surface of the product, the method comprising, *inter alia*, controlling the array of interference modulators to impart the selected overall product appearance to the product, wherein controlling the array of interference modulators comprises controlling the position of a reflective layer relative to an absorber layer to alter the size of an interferometric cavity located between the reflective layer and the absorber layer. Bornstein does not teach or suggest controlling a position of a reflective layer relative to an absorber layer to alter the size of an interferometric cavity located between the reflective layer and the absorber layer, nor does Cordova cure this deficiency. Applicant respectfully submits that amended Claim 71 is patentable over any combination of the cited art.

As Claims 55-58, 62, 64, and 70 depend from at least one of independent Claims 65-67 or 71, Applicant respectfully submits that they are patentable over any combination of the cited art for at least the reasons discussed with respect to the independent claims from which they depend, in addition to providing further patentable distinction.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Application No.: 09/991,378
Filing Date: November 21, 2001

Conclusion

Applicant respectfully submits that the above amendments have addressed each of the outstanding rejections, and that all pending claims are patentable over any combination of the cited art. Applicant respectfully requests the withdrawal of all outstanding rejections, and the allowance of the pending claims.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: December 10, 2008

By: 

Mark M. Abumeri
Registration No. 43,458
Attorney of Record
Customer No. 20,995
(949) 760-0404

6213252
111008